

ITEL

Rail Division

Two Embarcadero Center
San Francisco, California 94111
(415) 956-9090
Telex 34234

RECORDATION NO. 9935-C

Filed 1428

July 23, 1982

AUG -3 1982 - 11 25 AM

INTERSTATE COMMERCE COMMISSION

3-215A046

AUG 3 1982

Date

Fee \$ 10.00

ICC Washington, D. C.

Ms. Agatha Mergenovich, Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Ms. Mergenovich:

Pursuant to 49 U.S.C. Section 11303(a) and the Interstate Commerce Commission's rules and regulations thereunder, I enclose herewith on behalf of Itel Corporation for filing and recordation under the Lease Agreement dated as of October 5, 1978 (the "Lease") between Itel Corporation, Rail Division ("Itel") and Terminal Railways, Alabama State Docks ("Lessee"), which was filed on December 22, 1978 at 3:55 P.M. and given recordation No. 9935, four counterparts of the following document:

Amendment No. 2 (the "Amendment") dated as of June 18, 1982 to the Lease between Itel and Lessee.

The names and addresses of the parties to the aforementioned Amendment are:

1. Terminal Railways, Alabama State Docks
Alabama State Docks Boulevard
P.O. Box 1558
Mobile, Alabama 36633
2. Itel Corporation, Rail Division
Two Embarcadero Center, 24th Floor
San Francisco, CA 94111

The equipment covered by the Amendment is fifty (50) 70-ton flatcars, 89'4" in length, A.A.R. mechanical designation FC, bearing the reporting marks TASD 790000-790049.

Also enclosed is a check in the amount of \$10.00 for the required recording fee.

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10 AM
RECEIVED
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Ms. Agatha Mergenovich, Secretary
July 23, 1982
Page Two

Please stamp all counterparts of the enclosed Amendment with your official recording stamp. You will wish to retain one (1) counterpart of the document for your files; it is requested that the remaining three (3) counterparts be delivered to the bearer of this letter.

Sincerely,


Patricia Salas Pineda
Counsel

PSP:dmm
Enclosures

cc: Michael Walsh, Esq.
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10020

Robert S. Clark, Esq.
Senior Trust Officer
First Security Bank of Utah, N.A.
Corporate Trust Division
79 South Main Street
Salt Lake City, Utah 84111

Doug Drummond
IteI Corporation

Linda Lawrence
IteI Corporation

L-0315
6/17/82

RECORDATION NO. 9935-C Filed 1425

AUG -3 1982 -11 25 AM

AMENDMENT NO. 2

INTERSTATE COMMERCE COMMISSION

THIS AMENDMENT NO. 2 (the "Amendment") to that certain Lease Agreement (the "Agreement") dated as of October 5, 1978 between Itel Corporation, Rail-Intermodal Division, now doing business as **ITEL CORPORATION, RAIL DIVISION** as lessor ("Itel Rail") and Alabama State Docks Department, an agency of the State of Alabama, doing business as **TERMINAL RAILWAY, ALABAMA STATE DOCKS** as lessee ("Lessee") is made this 18th day of June, 1982, between Lessor and Lessee.

W I T N E S S E T H :

WHEREAS, Itel Rail and Lessee are parties to the Agreement pursuant to which fifty (50) flatcars bearing the reporting marks T ASD 790000-790049 ("Cars") have been delivered by Lessor to Lessee.

WHEREAS, Itel Rail and Lessee desire to sublease the Cars to a third party for a period of time to improve the utilization of and revenue from the Cars.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties agree to amend the Agreement as follows:

1. All terms defined in the Agreement shall have their defined meanings when used in this Amendment.
2. Itel Rail and Lessee agree that it is to their mutual benefit to sublease the Cars to a third party (hereinafter called "Sublessee") for a period of time to improve the utilization of and revenue from the Cars.
3. For the purposes of Paragraph 2 of the Amendment, Lessee hereby appoints Itel Rail as its agent, with full power and authority and in the name of Itel Rail (but on behalf of Lessee), to enter into a sublease agreement (the "Sublease") with Sublessee covering the Cars. Under said Sublease, Itel Rail shall be empowered to place the Cars in the possession of said Sublessee with the right in said Sublessee to utilize the Cars in interline revenue service under Sublessee's reporting marks. Such Sublease may contain such terms and conditions as Itel Rail shall agree to.
4. A. Lessee shall be released from its obligations under the Agreement with respect to each Car from the compliance date ("Compliance Date" as hereinafter defined) to and including the date on which such Car is restencilled with Lessee's reporting marks upon the expiration or termination date of the Sublease (to be hereinafter referred to as the "Ending Date"). The Compliance Date, with respect to each Car, shall be the date on which Lessee (1) complies with a car movement order from Itel Rail instructing Lessee where to move such Car off Lessee's railroad line to any specified location(s) for delivery to Sublessee, and (2) such Car is accepted for interchange by the Sublessee specified in the car movement order. It is understood and agreed that a car movement order may cover more than one Car.

- B. Upon the Ending Date, all terms and conditions of the Agreement shall be applicable to the Cars and Lessee shall be responsible for all of its obligations under the Agreement.
- C. The Utilization Rate of the Cars during the period from the Compliance Date to and including the Ending Date shall not be taken into account for the purpose of determining the overall Utilization Rate for any calendar year or applicable portion thereof under Section 6 of the Agreement.
- D. In consideration for Itel Rail's services as agent hereunder, Lessee hereby assigns, transfers and sets over unto Itel Rail all of Lessee's rights, title and interests, powers, privileges and other benefits, duties and obligations under any Sublease between Itel Rail, as agent for Lessee, and Sublessee, including without limitation, all rights to collect and receive all rentals, profits and other sums payable under the Sublease and performance due from any Sublessee under the Sublease. Itel Rail and Lessee agree that the performance of all obligations of each Sublessee with respect to the Cars shall be due to Itel Rail.
- E. Lessor may, at its expense, replace any or all of the Cars with similar flatcars. Prior to the Ending Date, Lessor shall make arrangements to have the Cars restencilled with the reporting marks set forth in Equipment Schedule No. 1, attached to and incorporated into the Agreement. Subsequent to such restencilling of the Cars, Lessor shall, at its option, either deliver the Cars to Lessee's line or place the Cars into interchange service.
- F. The restencilling, delivery, and return of the Cars pursuant to the Sublease, and the costs related thereto, shall be the responsibility of Itel Rail. Concurrent with any restencilling at the commencement, expiration, or early termination of the Sublease, Lessor shall provide Lessee with a Certificate of Restencilling (in the form of Exhibit A attached hereto) specifying the previous and current reporting marks for each Car. Such Certificate of Restencilling shall become attached to and incorporated into this Amendment.
5. Itel Rail shall notify Lessee of the commencement date and the expiration date of such Sublease and of any termination of the Sublease prior to the stated expiration thereof.
6. Lessee hereby authorizes Itel Rail to prepare and execute, on Lessee's behalf, all the documents contemplated by the Sublease and such other documents as may be required in furtherance of any financing agreement entered into by Itel Rail or its assignees in connection with the acquisition or financing or use of the Car in order to confirm the financing parties' interest in and to the Cars and the Sublease, and to confirm any subordination provisions in the Sublease.
7. Unless sooner terminated by written mutual agreement, Itel Rail's duties hereunder as Lessee's agent shall terminate, with respect to each Car, upon the Ending Date of such Car.

8. Nothing herein contained shall (i) be deemed to constitute a waiver or otherwise modify, affect or impair any sum due to Itel Rail with respect to any Car under the terms and conditions of the Agreement with regard to any period of time prior to the Compliance Date or after the Ending Date, or (ii) be deemed to constitute a waiver or otherwise modify, affect or impair the powers, rights, or remedies vested in or available to Itel Rail with respect to any Car under the terms and conditions of the Agreement with regard to any period of time prior to the Compliance Date or after the Ending Date.
9. Nothing set forth in this Amendment with respect to the Agreement represents a waiver by the parties hereto of any rights under the Agreement or the Bankruptcy Code and is not an assumption of the Agreement under the Bankruptcy Code, and in the event of the rejection of the Agreement by order of the Bankruptcy Court under the Bankruptcy Code, Lessee may claim pre-petition damages, if any, with respect to such rejection of the Agreement.
10. Except as expressly modified by this Amendment, all terms and provisions of the Agreement shall remain in full force and effect.
11. This Amendment may be executed by the parties hereto in any number of counterparts and all said counterparts taken together shall be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

ITEL CORPORATION,
RAIL DIVISION

By: *Edward M. O'Neil*

Title: *President*

Date: *6/30/82*

ALABAMA STATE DOCKS
DEPARTMENT, AN AGENCY OF
THE STATE OF ALABAMA,
DOING BUSINESS AS TERMINAL
RAILWAY, ALABAMA STATE DOCKS

By: *R. M. Hope*

Title: *Director*

Date: *June 25, 1982*

EXHIBIT A

CERTIFICATE OF RESTENCILLING

Previous
Flatcar
Marks

Current
Flatcar
Marks

Date of
Restencilling

Previous
Flatcar
Marks

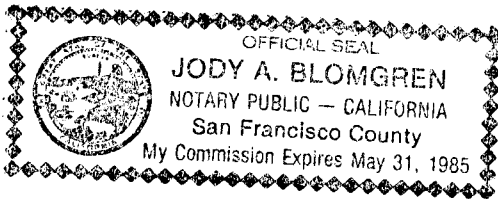
Current
Flatcar
Marks

Date of
Restencilling

Itel Corporation, Rail Division
Authorized Representative

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

On this 30th day of June, 1982, before me personally appeared Edward M. O'Dea, to me personally known, who being by me duly sworn says that such person is President of ITEL Corporation, Rail Division, that the foregoing Amendment No. 2 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Jody A. Blomgren
Notary Public

STATE OF Alabama)
) ss:
COUNTY OF Mobile)

On this 25th day of June, 1982, before me personally appeared Robert Z. Hester, to me personally known, who being by me duly sworn says that such person is Director of Alabama State Docks Department, an agency of the State of Alabama, doing business as Terminal Railway, Alabama State Docks, that the foregoing Amendment No. 2 was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Joseph P. Hester
Notary Public
My Commission
Expires 2/21/83